

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Kenneth F. BUECHLER, et al.

Serial Number: 10/603,891

Filing Date: June 24, 2003

Title: Markers for differential diagnosis and  
methods of use thereof

Group Art Unit: 1641

Examiner: Unsu Jung

**CONFIRMATION NO: 4895**

**FILED ELECTRONICALLY ON: February 10, 2009**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.97**

Sir:

An Information Disclosure Statement along with attached PTO/SB/08 is hereby submitted. A copy of each listed publication is submitted, if required, pursuant to 37 CFR §§1.97-1.98, as indicated below.

The Examiner is requested to review the information provided and to make the information of record in the above-identified application. The Examiner is further requested to initial and return the attached PTO/SB/08 in accordance with MPEP §609.

The right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered, is hereby reserved.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in §1.56.

A.  37 CFR §1.97(b). This Information Disclosure Statement should be considered by the Office because:

(1) It is being filed within 3 months of the filing date of a national application and is other than a continued prosecution application under §1.53(d);

-- OR --

(2) It is being filed within 3 months of entry of the national stage as set forth in §1.491 in an international application;

-- OR --

(3) It is being filed before the mailing of a first Office action on the merits;

-- OR --

(4) It is being filed before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

B.  37 CFR §1.97(c). Although this Information Disclosure Statement is being filed after the period specified in 37 CFR §1.97(b), above, it is filed before the mailing date of the earlier of (1) a final office action under §1.113, (2) a notice of allowance under §1.311, or (3) an action that otherwise closes prosecution on the merits, this Information Disclosure Statement should be considered because it is accompanied by one of:

a statement as specified in §1.97(e) provided concurrently herewith;

-- OR --

a fee of \$180.00 as set forth in §1.17(p) authorized below, enclosed, or included with the payment of other papers filed together with this statement.

C.  37 CFR §1.97(d). Although this Information Disclosure Statement is being filed after the mailing date of the earlier of (1) a final office action under §1.113 or (2) a notice of allowance under §1.311, it is being filed before payment of the issue fee and should be considered because it is accompanied by:

i. a statement as specified in §1.97(e);

-- AND --

ii. a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this Statement.

D.  37 CFR §1.97(e). Statement.

A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(c);

-- AND/OR --

A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(d);

-- AND/OR --

A copy of a dated communication from a foreign patent office clearly showing that the information disclosure statement is being submitted within 3 months of the filing date on the communication is provided in lieu of a statement under 37 C.F.R. § 1.97(e)(1) as provided for under MPEP 609.04(b) V.

E.  Statement Under 37 C.F.R. §1.704(d). Each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart application that was received by an individual designated in § 1.56(c) not more than thirty (30) days prior to the filing of this information disclosure statement. This statement is made pursuant to the

requirements of 37 C.F.R. §1.704(d) to avoid reduction of the period of adjustment of the patent term for Applicant(s) delay.

F.  37 CFR §1.98(a)(2). The content of the Information Disclosure Statement is as follows:

Copies of each of the references listed on the attached Form PTO/SB/08 are enclosed herewith.

-- OR --

Copies of U.S. Patent Documents (issued patents and patent publications) listed on the attached Form PTO/SB/08 are NOT enclosed.

-- AND/OR --

Copies of Foreign Patent Documents and/or Non Patent Literature Documents listed on the attached Form PTO/SB/08 are enclosed in accordance with 37 CFR §1.98 (a)(2).

-- AND/OR --

Copies of pending unpublished U.S. patent applications are enclosed in accordance with 37 CFR §1.98(a)(2)(iii).

G.  37 CFR §1.98(a)(3). The Information Disclosure Statement includes non-English patents and/or references.

Pursuant to 37 CFR §1.98(a)(3)(i), a concise explanation of the relevance of each patent, publication or other information provided that is not in English is provided herewith.

Pursuant to MPEP 609(B), an English language copy of a foreign search report is submitted herewith to satisfy the requirement for a concise explanation where non-English language information is cited in the search report.

-- OR --

A concise explanation of the relevance of each patent, publication or other information provided that is not in English is as follows: \_\_\_\_\_

Pursuant to 37 CFR §1.98(a)(3)(ii), a copy of a translation, or a portion thereof, of the non-English language reference(s) is provided herewith.

H. In accordance with the duty of disclosure under 37 C.F.R. § 1.56 and set forth in M.P.E.P. § 2001.06(b), Applicants wish to bring to the Examiner's attention the patents and co-pending United States applications which may be related to the instant application and may be material to patentability, listed below. The chart below is designed to assist the Examiner in the evaluation of the instant application. The status information, compiled from PAIR, is believed to be current as of 12/23/2008, and is subject to change. Applicants have not provided copies of the Office Actions from the patents and co-pending United States applications which may be related to the instant application, since they are believed to be readily available to the Examiner, but would be pleased to do so at the Examiner's request. Copies of the published applications/patents, if applicable, have been cited in a previous Information Disclosure Statement and/or are cited herein and listed on the attached PTO Form SB/08.

1.	11/512,743	36671-718.201	US 2007-0218498 A1	Docketed New Case- Ready for Examination	9/29/2007	James L. Grunn
2.	08/423,582	36671-726.201	5,795,725	Patented Case	8/13/1998	Bao Thuy Nguyen
3.	09/687,051	36671-726.301	6,991,907	Patented Case	1/11/2006	Gailene Gabel
4.	10/850,954	36671-726.302	US 2005-0164317	Final Rejection Mailed	7/1/2008	Gailene Gabel
5.	09/349,194	36671-726.401	6,939,678	Patented Case	8/17/2005	Gailene Gabel
6.	09/425,318	36671-726.402	6,579,687	Patented Case	5/29/2003	Gailene Gabel
7.	10/459,006	36671-726.403	US 2003-0211544	Abandoned ---Failure to Respond to an Office Action	6/22/2007	Bao Thuy L. Nguyen
8.	11/673,397	36671-726.404	US 2007-0196880 A1	Response to Non-Final Office Action Entered and Forwarded to Examiner	9/22/2007	Bao Thuy Nguyen
9.	08/633,248	36671-726.501	6,174,686	Patented Case	12/26/2000	Bao Thuy Nguyen
10.	08/769,077	36671-726.502	6,627,404	Patented Case	9/11/2003	Bao Thuy Nguyen
11.	08/821,888	36671-732.201	5,947,124	Patented Case	8/30/1999	Kelly S. Campen
12.	07/076,038	36671-735.201	4,900,662	Patented Case	12/11/1989	Not Defined
13.	08/083,853	36671-735.301	5,382,515	Patent Expired Due to Non- payment of Maintenance Fees Under 37 CFR 1.362	2/19/2003	Toni Scheiner
14.	08/083,854	36671-735.302	5,382,522	Patent Expired Due to Non- payment of Maintenance Fees Under 37 CFR 1.362	2/19/2003	Toni Scheiner
15.	08/723,699	36671-735.303		Expired		
16.	07/299,277	36671-735.501	5,202,234	Patent Expired Due to Non- payment of Maintenance	5/12/2005	Carol Spiegel

				Fees Under 37 CFR 1.362		
17.	11/204,764	36671-738.201	US 2006-0105419 A1	Appeal Decision Rendered.- Examiner Affirmed	10/08/2008	Bin Shen
18.	08/993,750	36671-741.201	6,156,521	Patented Case	11/16/2000	Bao Thuy Nguyen
19.	09/835,298	36671-742.201	US 2003-0022235 A1	On Appeal-- Awaiting Decision by the Board of Appeals	1/9/2008	Ann Lam
20.	10/389,720	36671-742.401	US 2004-0171064 A1	Final Rejection Mailed	4/28/2008	Christine Foster
21.	10/225,082	36671-743.201	7,427,490	Patented Case	9/23/2008	Gary Counts
22.	10/371,149	36671-743.501	US 2003-0199000 A1	Nonfinal Rejection Mailed	11/7/2008	Gary Counts
23.	10/673,077	36671-743.502	US 2004-0209307 A1	Response to Non Final Action Filed	10/20/2008	Lisa Cook
24.	10/714,078	36671-743.503	US 2004-0219509 A1	RCE Filed	10/29/2008	Lisa Cook
25.	10/875,800	36671-743.504	US 2005-0255484 A1	Response to Non Final Action Filed	10/23/2008	Lisa Cook
26.	12/090,785	36671-743.831		Notice to File Missing Parts Mailed	8/5/2008	
27.	10/139,086	36671-744.201	7,361,473	Patented Case	4/2/2008	Ann Lam
28.	11/560,425	36671-744.301	US 2008-0045444 A1	Application Dispatched from Preexam, Not Yet Docked	11/12/1007	
29.	11/205,571	36671-744.401	7,358,055	Patented Case	3/26/2008	Ann Lam
30.	11/963,713	36671-744.402		Docketed New Case- Ready for Examination	7/28/08	
31.	10/419,059	36671-744.501	US 2003-0219734 A1	Final Rejection Mailed	4/14/2008	Christine Foster
32.	10/645,874	36671-744.502	US 2004-0176914 A1	Response to Non-Final Office Action Entered and	6/6/2007	Leon Yun Bon Lum

				Forwarded to Examiner		
33.	10/938,760	36671-744.503	US 2005-0148024 A1	Notice of Allowance Mailed – Application Received in Office of Publications	9/8/2008	Ann Lam
34.	10/827,919	36671-744.504	7,341,838	Patented Case	2/20/2008	Ann Lam
35.	10/330,696	36671-745.201	US 2004-0121343 A1	Non Final Action Mailed	11/13/2008	Unsu Jung
36.	10/728,067	36671-745.501	US 2004-0203083 A1	Abandoned - Failure to Respond to an Office Action	12/10/2008	Unsu Jung
37.	11/795,173	36671-748.831	US 2008-0293920 A1	Application Undergoing Preexam Processing		
38.	10/331,127	36671-749.201	US 2004-0126767 A1	Appeal Dismissed / Withdrawn	6/5/2008	Carolyn Smith
39.	10/410,572	36671-749.202	US 2004-0121350 A1	Abandoned - Failure to Respond to an Office Action	10/24/2008	Russell S. Negin
40.	11/222,494	36671-751.201	US 2006-0051825 A1	Abandoned - Failure to Respond to an Office Action	7/17/2008	James Leslie Grunn
41.	12/171,245	36671-751.301		Application Undergoing Preexam Processing	7/10/2008	
42.	11/450,150	36671-753.201	US 2007-0269836 A1	Non Final Action Mailed	10/28/08	Christine Foster
43.	11/684,498	36671-755.201	US 2007-0224643 A1	Docketed New Case Ready for Examination	5/8/2008	Lisa Cook
44.	11/752,135	36671-756.201	US 2008-0118924 A1	Docketed New Case - Ready for Examination	6/27/2008	Zachary C. Howard
45.	11/645,901	36671-775.201		Waiting for LR Clearance	6/12/2007	
46.	11/940,111	36671-779.201		Application Dispatched from	7/21/2008	

				Preeexam, Not Yet Docketed		
47.	08/459,596	36671-781.401	5,843,690	Patented Case	10/25/2004	Carol Spiegel

I.  *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$180.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 23-2415 (Docket No. 36671-745.502).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Dated: February 05 , 2009

By: Anavelys Ortiz-Suarez

Anavelys Ortiz-Suarez, PhD  
Reg. 63,535

650 Page Mill Road  
Palo Alto, CA 94304-1050  
(650) 493-9300  
Customer No. 80984